

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DAVID E. SMITH, )  
 )  
Petitioner, )  
 )  
v. ) Case No. 4:19 CV 1913 MTS  
 )  
 )  
STANLEY PAYNE, )  
 )  
Defendant )

**MEMORANDUM AND ORDER**

This matter is before the Court on Petitioner's motion for appointment of counsel, Doc. [37], motion for appointment of counsel, Doc. [38], and motion for evidentiary hearing, Doc. [39]. For the following reasons, the motions will be denied.

"There is no constitutional or statutory right to appointed counsel in civil cases."

*Phillips v. Jasper County Jail*, 437 F.3d 791, 794 (8th Cir. 2006) (internal citation omitted). "Rather, when an indigent prisoner has pleaded a nonfrivolous cause of action, a court *may* appoint counsel." *Id.* "The relevant criteria for determining whether counsel should be appointed include the factual complexity of the issues, the ability of the indigent person to investigate the facts, the existence of conflicting testimony, the ability of the indigent person to present the claims, and the complexity of the legal arguments."

*Id.*

After considering these factors, this Court finds that the factual and legal issues are not complex, Petitioner has the ability to use written discovery to investigate his case, and

his pleadings indicate his ability to state claims and legal arguments. The Court finds, therefore, that the appointment of counsel is not warranted at this time. The Court will continue to monitor the progress of this case, and if it appears to this Court that the need arises for counsel to be appointed, the Court will do so.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiffs motion for appointment of counsel, Doc. [37], motion for appointment of counsel, Doc. [38], and motion for evidentiary hearing, Doc. [39], are **DENIED** without prejudice.

Dated this 12th day of July, 2021



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MATTHEW T. SCHELP  
UNITED STATES DISTRICT JUDGE